IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SECOND DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HONOURABLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.1808 of 1999

Between:

1. Smt.D.Suguna,W/o.Shankaraiah, 45 years, H.No.8-5-345, Kothi Rampoor, Karimnagar District.
2. Gorre Balraj, S/o.Late Mallaiah, 50 years, Kothirampoor, Karimnagar District.
3. B.Bagya Laxmi, W/o.Anjaiah, 40 years, H.No.8-6-91, Kothi Rampoor, Karimnagar District.
4. Smt.B.Urmila, W/o.Venkatesham, 35 years, H.No.8-6-96, Kothi Rampoor, Karimnagar District.
5. N.Rajesham, S/o.Venkataiah, 28 years,Tractor Garage, Kothi Rampoor, Karimnagar District.
6. Boddu Prabhakar,S/o.Mandaiah, H.No.8-7-200, Kothi Rampoor, Karimnagar District.
7. A.Malla Reddy, S/o.Narayana reddy,Jangapalli Post, Bejjanki Mandal, Karimnagar District.
8. N.Narender Reddy, S/o.Ram Reddy, Jangapalli Post, Bejjanki Mandal, Karimnagar District.
9. Nakka Chinna Rajaiah,S/o.Late Rajaiah, H.No.6-5-308, Gandhi Road, Karimnagar District.
10. Jinka Pochaiah, S/o.Durgaiah, H.No.6-5-308,Gandhi Road, Karimnagar District.
11. M.Ram Moorthy, S/o.Raja Narsu, H.No.8-7-60, Kothi Rampoor, Karimnagar District.

12. Smt.M.Shobha, W/o.Yadagiri, H.No.3-6-165, Subash Nagar, Karimnagar District.

13. Smt.K.Yasoda Devi, W/o.Ramchander, H.No.8-7-177, Kothi Rampoor, Karimnagar District.

14. Smt.G.Mani, W/o.Narsingam, Karkana Gadda, Karimnagar District.

15. Smt.Dontula Sujatha, W/o.shankaraiah, H.No.8-5-345, Kothi Rampoor, Karimnagar District.

16. Smt.Molangoori Venkatamma,W/o.Ayodhya, H.No.6-8-127, Kothi Rampoor, Karimnagar District.

17. Smt.Chenni Bhagya Laxmi, W/o.Somaiah, H.No.6-8-127, Kothi Rampoor, Karimnagar District.

18. Kommu Nandaiah, S/o.Pochaiah, H.No.8-7-27, Kothi Rampoor, Karimnagar District.

19. Smt.N.Uma, W/o.Narsing Rao,H.No.8-7-28, Kothi Rampoor, Karimnagar District.

20. Patan Habibullah Khan, S/o.Samulla Khan, R/o.Koti Rampoor, Karimnagar District.

21. Smt.Kotha Laxmi, W/o.Veera Reddy, H.No.8-6-188/1,Alkapur, Koti Rampoor, Karimnagar District.

22. Smt.Janaki,W/o.Damodar Rao, R/o.Devdupalli, Mandal Manakondur, Karimnagar District.

23. P.Thirupathi Rao, S/o.Hanmanth rao, R/o.Devdupalli, Mandal Manakondurf, Karimnagar District.

24. M.Kumara Swamy, S/o.Shiva Lingam, H.No.8-5-351, KotiRampoor, Karimnagar District.

25. P.Appa Rao,S/o.Kankaiah, H.No.8-5-63, Laxminagar, Karimnagar District.

26. K.Durga Prasad, S/o.Achaiah, H.No.8-1-168,Koti Rampoor, Karimnagar District.

27. N.Rajesham, S/o.Venkataiah,Tractor Garage, Kothi Rampoor, Karimnagar District.

28. T.Buchaiah, S/o.Ramaiah, H.No.8-86(old), Ganesh Nagar, Karimnagar District.

29. G.Balraju, S/o.Mallaiah, H.No.8-2-27, Koti Rampoor, Karimnagar District.

...PETITIONERS

AND

1. The Mandal Revenue Officer, Karimnagar, Karimnagar District.

2. The Revenue Divisional Officer, Karimnagar, Karimnagar District.

3. Manjit Singh, S/o.Jagan singh, 37 years, Occ.Business, R/o.Sikhwadi, Karimnagar, Karimnagar District.

(R3 is impleaded as per Court order in W.P.M.P.No.24158 of 2001 dated 04.06.2002)

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the first respondent in issuing notices to the petitioners in his Proceeding No.B1/5349/98, dated 08.12.1998 as being illegal, unconstitutional, without jurisdiction as being contrary to the Launi Rules, 1950 and set aside the same and pass such other order or orders as are deemed fit and proper in the circumstances of the case.

Counsel for the Petitioners: MR.K.RAJA REDDY

Counsel for the Respondents: GP FOR ASSIGNMENT

The Court made the following:

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.1808 OF 1999

ORDER:

The District Collector assigned a small extent of land to twenty nine persons by proceedings dt.31.1.1956. The total extent of land assigned to all the twenty nine persons is about Ac.16.16 guntas situated in S.No.622 of Karimnagar, which is classified as bancharai. Petitioner No.2, who is legal heir of one Gorle Mallaiah, is also one of the original assignees whereas petitioners 9 and 10 are original assignees. All other petitioners allegedly purchased small extents of lands from original assignees and they constructed houses and have been living there for the last more than four decades. The Mandal Revenue Officer, first respondent herein, initiated action for cancellation of the assignment and issued notices to original assignees. Notice was, however, not issued to any of the petitioners before initiating

action, presumably under the provisions of the A.P. Assigned Lands (Prohibition of Transfers) Act, 1977 (for short, the Act). The petitioners therefore invoked the jurisdiction of this Court seeking a declaration that the action of first respondent in issuing show cause notices for cancellation of the assignment is illegal and arbitrary.

The Mandal Revenue Officer has filed a counter affidavit on behalf of the respondents admitting that the land was assigned to twenty nine persons. However, the allegation that petitioners purchased land from the original assignees is denied and it is stated that petitioners, 2, 9 and 10 are original assignees, and petitioners 5 to 8, 15, 20, 22 to 24 and 28 are only purchasers. It is further stated that the assignment was made in 1956 under Laoni Rules, 1950 with the condition that the land should not be alienated to anybody. The continuous possession of the petitioners was also denied. When it came to the notice of the revenue authorities that assignees/purchasers are utilizing the land for non-agricultural purposes by raising illegal constructions and digging wells and kandakam, action was initiated and show cause notices were issued for violating the conditions of assignment rules for the purpose of resuming the land.

Learned counsel for the petitioners, Sri K.Raja Reddy submits that under Laoni Rules, 1950, there was no condition of inalienability to the land assigned and therefore there was no illegality in the petitioners purchasing the land from the original assignees. He further submits that the land was assigned in 1956 and therefore it was improper for the first respondent to issue notices for cancellation of assignment in 1998 after long lapse of time.

These contentions are refuted by the learned Assistant Government Pleader for Revenue (Assignment). He, however, does not dispute the fact that notice for cancellation of the assignment was issued to original assignees and no notice was issued to petitioners, who, even according to counter affidavit, purchased the land from assignees and constructed houses. If any action is taken for cancellation of assignment and resumption of the land, petitioners would be directly affected and therefore either under the Laoni Rules or under the Act there is requirement of law to issue notice to all of them. Non issue of notice is incurable defect in the action initiated by first respondent.

Third respondent, who is President of Karimnagar Gurudwar Prabhandhak Committee, was impleaded by this Court by order dt.4.6.2002 in W.P.M.P.No.24158 of 2002. It is the case of the third respondent that they are in possession of an extent of 30 guntas of land, which is being used by Sikh community for graveyard, and if any action is initiated for cancellation of the same, it would adversely affect the interest of third respondent. Even in case of third respondent also, law requires notice to be given.

In the result, without expressing any opinion as to right of the petitioners and third respondent to continue possession of the land, having regard to the fact that possession of the some of the petitioners is not specifically denied, the Writ Petition is disposed of giving liberty to first respondent to issue notice afresh to all the

petitioners, and third respondent, who are in possession of the property, and take appropriate action under the provisions of the Act. As and when the notices are issued, it shall be open to petitioners and third respondent to file representations and seek for regularization of the occupation. The Mandal Revenue Officer shall complete the exercise within a period of eight weeks from the date of receipt of a copy of this order. Till then, *status quo* as on today shall be maintained. Petitioners and third respondent shall not alienate the property or make any further constructions until the Mandal Revenue Officer decides the matter.

The Writ Petition, with the above observations and directions, is disposed of. No costs.

2.8.2004

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ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copy To:

1. The Mandal Revenue Officer, Karimnagar, Karimnagar District.
2. The Revenue Divisional Officer, Karimnagar, Karimnagar District.
3. Two CCs to G.P. for Assignment, High Court Buildings, Hyderabad (OUT).
4. Two CD copies.